

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

*In Re: Platinum And Palladium Commodities
Litigation*

MASTER FILE
No. 10 Civ. 3617 (WHP)

This Document Relates To:

Platinum/Palladium Futures and Physical Actions

**DECLARATION OF DAVID M. ZENSKY IN SUPPORT OF
MOTIONS FOR FINAL APPROVAL OF CLASS SETTLEMENTS**

I, David M. Zensky, pursuant to 28 U.S.C. §1746, and the terms of the settlements entered into in the above-captioned litigation (the “Settlements”) [Dkt. Nos. 163-1 and 168-1] hereby declares as follows:

1. I am a partner with the law firm of Akin Gump Strauss Hauer & Feld LLP (“Akin Gump”). The statements herein are true to the best of my personal knowledge, information and belief.

2. Akin Gump represents defendants Moore Capital Management, LP, Moore Capital Management, LLC, Moore Capital Advisors, LLC, Moore Advisors, Ltd., Moore Macro Fund, LP, Moore Global Fixed Income Master Fund, LP, and Louis Bacon (the “Moore Defendants”) in the above-captioned class action lawsuit (the “Action”).

3. I respectfully submit this declaration in support of the Futures and Physical Plaintiffs’ motions for final approval of the Settlements with, *inter alia*, the Moore Defendants, being filed concurrently.

4. On September 27, 2013, the Moore Defendants, through their undersigned counsel, caused the Settlement Administrator (as defined in the Settlements) to mail a notice (the

“CAFA Notice”) in compliance with the Class Action Fairness Act, 28 U.S.C. § 1715(b), to the following individuals and entities (collectively, the “CAFA Recipients”):

- a. The Attorney General for the United States;
- b. The Attorneys General for each of the United States, the District of Columbia, Puerto Rico, and other United States Territories; and
- c. The Secretaries of State for Delaware, Connecticut, New York, New Jersey, and the District of Columbia.

5. The CAFA Notice informed the CAFA Recipients of the pendency of the Settlements, the dates of then-pending approval hearings and objection deadlines, and included on an enclosed CD-Rom the following materials:

- a. the Class Action Complaint, First Amended Consolidated Complaint, Second Amended Consolidated Complaint, Third Amended Consolidated Complaint, Fourth Amended Consolidated Complaint, and Fifth Amended Consolidated Complaint, along with all exhibits thereto;
- b. the Proposed Order Preliminarily Approving Proposed Settlement, Scheduling Hearing for Final Approval Thereof, and Approving the Proposed Form and Program of Notice to the Class;
- c. the long and short-form Notice of Proposed Class Action Settlement;
- d. the operative Stipulation and Agreement of Settlement for both the physical and futures Settlements;
- e. the Exhibits to the Stipulation and Agreement of Settlement for both the physical and futures Settlements;

- f. the proposed Final Order and Judgment for both the physical and futures Settlements;
- g. an estimate of the number of futures subclass members, and a statement that it was is not possible to identify the number of individuals in the physical subclass; and
- h. the preliminary Scheduling Order filed August 22, 2013.

6. The Moore Defendants have responded to all requests for additional information made by the CAFA Recipients, and are not aware of any formal or informal objections to the Settlements by a CAFA Recipient.

7. Based on the foregoing, the Moore Defendants, on behalf of all defendants in the Action, believe that the requirements of 28 U.S.C. § 1715(b)(1-8) have been met.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on January 14, 2015



David M. Kensky